IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

WP(C).No. 4068 of 2004(H)

AGAINST THE ORDER DATED 16/12/2003 IN IA.1789/2003 IN OS.145/2001 of MUNSIFF'S COURT, DEVIKULAM

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PETITIONERS:

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1. SABU, S/O. PAULOSE,
   THELAKKADU (HOUSE), POOPPARA KARA,
   POOPPARA VILLAGE.

2. BENNY, S/O. PAULOSE,
   THELAKKADU (HOUSE), POOPPARA KARA,
   POOPPARA VILLAGE.

BY ADV. SRI.A.T.ANILKUMAR

RESPONDENT:

NAGARAJAN, S/O. MARIAPPAN,
NITHYA BHAVAN HOUSE, POOPPARA KARA,
POOPPARA VILLAGE.

BY ADV. SRI.B.PREMOD
SMT.M.K.SHIMI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.4068 OF 2004

APPENDIX

PETITIONER'S EXTS:

Ext.P1 – TRUE COPY OF ORDER IN I.A.1789/03 DT.16.12.03

Ext.P2 – TRUE COPY OF COMMN. REPORT DT.13.11.03

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.4068 OF 2004

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DATED THIS THE 6TH JUNE, 2007

J U D G M E N T

On reading through Ext.P1, I do not find any warrant for correcting the same in the visitorial jurisdiction of this Court under Article 227 of the Constitution of India. But Sri.A.T.Anilkumar, learned counsel for the petitioners submits that the observation of the learned Munsiff that the petitioners had not submitted any work memo before the advocate commissioner, before the commissioner completed the commission work, is a mistake. He invited my attention to the first paragraph of Ext.P2 commissioner's report which will show that a copy of the work memo containing one item was served on the commissioner before the commencement of the work, by the clerk of the advocate for the defendants-petitioners. I find some merit in what the learned counsel for the petitioners submits. However, it is for the petitioners to move the learned Munsiff himself for review on the ground that there is an error apparent on the face of the record about Ext.P1.

2. Giving the petitioners that liberty, this Writ Petition will stand disposed of. If an application for review is filed by the petitioners within three weeks from today, the learned Munsiff will entertain that

application and dispose of the same on merits, construing the time taken in this Court and three weeks hereafter, for the purpose of Section 14 of the Limitation Act, as time taken for bona fide prosecuting the issue in another court.

(PIUS C. KURIAKOSE, JUDGE)

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